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FIRST DIVISION

[G.R. No. L-41747. March 31, 1978]

ENCARNACION BELARMINO, for herself and in behalf of her minor children, namely, BERNADETTE, ROBERTO, RENE and VILMA, all surnamed BELARMINO, *petitioners, vs.* **WORKMEN'S COMPENSATION COMMISSION, PACIFIC METALS CORPORATION and DOMINADOR L. CRISTOBAL,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; DEATH IS COMPENSABLE WHEN ASSAULT IS WORK-CONNECTED.— Respondent Commission, mainly premised the denial of the claim on the fact that the death occurred after working hours outside the premises of the corporation, and the alleged absence of any showing that the assault was connected with the work of the deceased. It is admitted however that the deceased, Cirilo Belarmino, was a *capataz*, as such was a group leader, and supervisor, who took charge of the workers in the rolling department, and that his assailant was one of the men working under him. The widow of the deceased employee testified that the latter confided to her that he was having difficulty in handling the persons under him and that he had a misunderstanding with one of them by the name of Ponciano Angeles. This testimony of the widow was considered by respondent Commission as self- serving and was disregarded, this notwithstanding the fact that there was no motion on the part of the employer's attorney to strike out said testimony and that as a consequence the same remained part of the record of the case. The Commission indeed committed a gross misappreciation of the evidence considering that there was no proof adduced by respondent corporation to overthrow or rebut the foregoing testimony of the widow. In fact, respondent Dominador Cristobal when asked during the hearing if he knew of any misunderstanding that Ponciano Angeles had in the Pacific Metals Corporation answered: "I do not know, sir." while

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the other witness, Alejandro Padilla, testified that he was not aware "of any unusual reactions or feelings among the workers on October 9, 1969." As between this lack of knowledge of the witnesses of respondent employer of any misunderstanding between Cirilo Belarmino and Ponciano Angeles and the positive testimony of the widow of Cirilo Belarmino that the latter had difficulties with his men and had a misunderstanding with one of them, the latter must prevail in the face of the incontrovertible happening that Ponciano Angeles assaulted and shot to death his supervisor, Cirilo Belarmino, after their work and while the latter was on his way home at a distance of about 75 feet from the company's compound. Not only are the "proximity rule" adopted in *IDECO, supra*, and the "going-to-and-coming-from" rule enunciated in the very recent case of *Bael v. Workmen's Compensation Commission*, 1977, 75 SCRA 181, applicable to the instant situation, but more controlling is the principle laid down in *Luzon Stevedoring* that where the cause of the assault is work-connected, the death of an employee is compensable under the *Workmen's Compensation Act*.

APPEARANCES OF COUNSEL

Alejandro S. Bonifacio for petitioners.

V. A. Miguel for respondent, WCC.

Armando H. Salva and *Ricardo S. Inton* for private respondents.

D E C I S I O N

MUÑOZ PALMA, *J.*:

Is the death of an employee caused by an assault of a co-employee after working hours at some distance from the premises of the employer compensable under the Workmen's Compensation Act?

This is the problem posed in this Petition of Encarnacion Belarmino and her minor children who seek a review of the dismissal of their claim for compensation benefits arising from the death of the late Cirilo Belarmino.

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Cirilo Belarmino was employed in 1969 as a *capataz* in the rolling department of the Pacific Metals Corporation earning ₱8.00 a day with working hours from 7:00 o'clock in the morning to 4:00 o'clock in the afternoon, with an hour break for lunch. On October 9, 1969, after the close of working hours, more particularly, between 5:00 to 5:20 in the afternoon, Belarmino was shot to death by one of the men working under him by the name of Ponciano Angeles at a place about 75 feet away from the compound of the Pacific Metals Corporation in San Bartolome, Novaliches, Quezon City.[1]

As a result of the death of her husband, Encarnacion Belarmino filed on May 26, 1970, her claim with the Regional Office No. IV of the Department of Labor against Pacific Metals Corporation. Copy of this claim was received by the corporation on June 16, 1970, and on June 26 it filed a controversion alleging that it was not the employer of the deceased, but that it was Dominador L. Cristobal who was the contractor of the services of the corporation. The claim was accordingly amended to include Cristobal as party respondent.

A hearing was held during which the claimants adduced evidence to show that Cirilo Belarmino was shot by Ponciano Angeles because of a grudge or conflict resulting from the work of the latter in the factory. The widow of Belarmino testified that her husband had occasion to confide in her that "it was difficult to handle persons" and as a result "he had a misunderstanding with Ponciano Angeles, one of the workers under him in the rolling department."[2]

The Acting Referee, Pedro P. Pelaez, dismissed the claim for lack of merit. The case was elevated to the Workmen's Compensation Commission for review and the Commission *en banc* affirmed the dismissal.

The Workmen's Compensation Commission, now respondent, found and held that the Pacific Metals Corporation was the

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[1] p. 151, W.C.C. original record.

[2] pp. 21-22 T.S.N., June 25, 1971 at pp. 114-115, *Ibid.*

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employer of the deceased and not Dominador L. Cristobal; however, it dismissed the claim for death benefits because the accident which resulted in the death of the employee was not work-connected inasmuch as Cirilo Belarmino had already left his work at 4:00 in the afternoon when he was shot outside the premises of employer-corporation. Respondent Commission thus stated:

"He (referring to Cirilo Belarmino) should be home instead of loitering outside the premises of respondent corporation. Certainly employers should deserve before the law the same consideration as workers and they should not be held responsible for all the accidents that will befall their workers, particularly, when such accidents occur outside of their premises and outside working hours. After all, it is settled that the employer is not an insurer against all accidental injuries befalling the employees and as a general rule an employee is not entitled to recover from personal injuries resulting from an accident that befalls him while going to or returning from his place of employment, because such accident does not arise out of and in the course of his employment (*Afable, et al. v. Singer Sewing Machine Co.*, G.R. No. 36858, March 6, 1933)." (p. 149, *ibid.*)

We set aside the dismissal of petitioners' claim for death benefits finding ample justification for awarding the claim in the light of the Court's decision in *Iloilo Dock & Engineering Co. (IDECO) v. Workmen's Compensation Commission, et al.*, 1968, 26 SCRA 102, and *Luzon Stevedoring Corp. v. Workmen's Compensation Commission, et al.*, 1969, 27 SCRA 1132.

In IDECO, a mechanic of the company, while walking on his way home at about 5:02 o'clock in the afternoon of January 19, 1969, was shot to death about 20 meters away from the gate of IDECO, in a private road commonly called the IDECO road. *The motive for the crime was unknown.* The claim for death benefits of the heirs of the deceased mechanic was granted by the Workmen's Compensation Commission. IDECO appealed claiming that the death of the employee did not arise out of and was not in the course of employment and that it was error for the Commission to apply the so-called "proximity rule." After

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an exhaustive dissertation by then Justice now Chief Justice Fred Ruiz Castro, on American and Philippine Jurisprudence on the scope of the words "work-connected," "arising out of," "in the course of" and "going and coming rule," the Court affirmed the compensation award notwithstanding the unexplained motive of the assault because the portion where the employee was killed was in very close proximity to the employer's premises; it was an "access area" "so clearly related to the employee's premises as to be fairly treated as a part of the employer's premises," and IDECO was under obligation to keep the place safe for its employees, that is, safe against dangers that the employees might encounter therein, and one of these dangers being assault by third persons, and not having taken the proper security measures over the said area which it controls, IDECO is liable for the injuries suffered by its employee resulting in his death.[3]

In *Luzon Stevedoring Corp. v. Workmen's Compensation Commission*, Rosano, a laborer of Luzon Stevedoring had a heated verbal argument with Valdez another stevedore over the possession of a platform used in the loading and unloading of cargoes. After the work of the day was done, Rosano boarded a passenger jeep bound for his home in Tondo and when he got off the jeep near his house he was met and stabbed by Valdez with a knife. Rosano died in the afternoon of that same day November 30, 1964. An award was given by the Workmen's Compensation Commission and on appeal by Luzon Stevedoring, this Court affirmed the award. In the words of Justice J.B.L. Reyes who wrote the decision for the Court as Acting Chief Justice at the time:

"For an injury to be compensable, it is not necessary that the cause therefor shall take place within the place of employment. If a workman is acting within the scope of his employment, his protection 'in the course of' the employment usually continues, regardless of the place of injury. Thus, in one case, an employee went to the house of the employer across the warehouse where he worked to get a drink of water, that there, while trying to drive away a puppy that he saw

[3] 26 SCRA 127.

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eating fish in the employer's kitchen, he was bitten in the hand, as a result of which he later died of hydrophobia. The death of the employee was held compensable, on the ground that his trip to the kitchen was occasioned by the employer's fault in not providing adequate drinking water at the warehouse. In the present case, it cannot be disputed that it is inherent in the stevedoring work for the petitioner that the laborers, like the deceased, stay in the pier and wait for the docking of petitioner's vessels.

"Furthermore, jurisprudence is to the effect that injuries sustained by an employee while in the course of his employment, as the result of an assault upon his person by another employee, or by a third person, no question of the injured employee's own culpability being involved, is compensable where, from the evidence presented, a rational mind is able to trace the injury to a cause set in motion by the nature of the employment, or some condition, obligation or incident therein, and not by some other agency." (27 SCRA 1138-1139, citing *Younger v. Motor Cab Co., 260 N.Y. 396, cited in Horovitz on Workmen's Compensation*, page 172; *Chua Yeng v. Roma*, L-14827, 31 October 1960; *Morgan v. Hoage*, 63 App. D.C. 355, 72 F. (2d) 727)

In the case now before Us, respondent Commission, mainly premised the denial of the claim on the fact that the death occurred after working hours outside the premises of the corporation, and the alleged absence of any showing that the assault was connected with the work of the deceased.

It is admitted however that the deceased, Cirilo Belarmino, was a *capataz*, as such was a group leader, and supervisor, who took charge of the workers in the rolling department, and that his assailant was one of the men working under him.[4] The widow of the deceased employee testified that the latter confided to her that he was having difficulty in handling the persons under him and that he had a misunderstanding with one of them by the name of Ponciano Angeles. This testimony of the widow was considered by respondent Commission as self- serving and was disregarded, this notwithstanding the fact that there was no motion on the part of the employer's attorney to strike out said testimony and that as a consequence the same remained

[4] T.S.N., June 3, 1971 p. 61, at p. 130, WCC original record.

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part of the record of the case. The Commission indeed committed a gross misappreciation of the evidence considering that there was no proof adduced by respondent corporation to overthrow or rebut the foregoing testimony of the widow. In fact, respondent Dominador Cristobal when asked during the hearing if he knew of any misunderstanding that Ponciano Angeles had in the Pacific Metals Corporation answered: "I do not know, sir."[5] while the other witness, Alejandro Padilla, testified that he was not aware "of any unusual reactions or feelings among the workers on October 9, 1969."[6] As between this lack of knowledge of the witnesses of respondent employer of any misunderstanding between Cirilo Belarmino and Ponciano Angeles and the positive testimony of the widow of Cirilo Belarmino that the latter had difficulties with his men and had a misunderstanding with one of them, the latter must prevail in the face of the incontrovertible happening that Ponciano Angeles assaulted and shot to death his supervisor, Cirilo Belarmino, after their work and while the latter was on his way home at a distance of about 75 feet from the company's compound.

Not only are the "proximity rule" adopted in *IDECO, supra*, and the "going-to-and-coming-from" rule enunciated in the very recent case of *Bael v. Workmen's Compensation Commission*, 1977, 75 SCRA 181, applicable to the instant situation, but more controlling is the principle laid down in *Luzon Stevedoring* that where the cause of the assault is work-connected, the death of an employee is compensable under the *Workmen's Compensation Act*.[7]

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[5] p. 129, *Ibid.*

[6] p. 125, *Ibid.*

[7] See also *Nava v. Ynchausti Steamship Co.*, 57 Phil. 751; *Bohol Land Transportation Co. v. Vda. de Mandaguit*, 70 Phil. 685; *Batangas Transportation Co. v. Vda. de Rivera*, L-7658, May 8, 1956, all cited in *Iloilo Dock & Engineering Co. v. Workmen's Compensation Commission, supra.*

In *Bael v. Workmen's Compensation Commission* a school teacher died as a result of a vehicular accident on her way home from school, and her death was held compensable under the "going-to-and-coming-from" rule.

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Thus, under the particular circumstances of this case, We answer the legal issue posed in this Petition in the affirmative.

IN VIEW OF THE FOREGOING, We set aside the decision under review, and We order respondent Pacific Metals Corporation to pay the following amounts to:

1) The widow and minor children of the deceased Cirilo Belarmino:

   Six Thousand (₱6,000.00) Pesos as death compensation benefits:

   Two Hundred (₱200.00) Pesos as burial expenses;

   Three Hundred (₱300.00) Pesos for attorney's fees for the hearing below, plus another Three Hundred (₱300.00) Pesos for attorney's fees for this Petition for Review;

2) The Workmen's Compensation Fund — Sixty-One (₱61.00) Pesos.

So Ordered.

Teehankee (Chairman), Makasiar, Fernandez, and *Guerrero, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-42020. March 31, 1978]

SUPERIOR CONCRETE PRODUCTS, INC., *petitioners, vs.* **WORKMEN'S COMPENSATION COMMISSION and CARMELITO BENOZA,** *respondents.*

SYLLABUS

1. CONSTITUTIONAL LAW; BILL OF RIGHTS; DUE PROCESS, NOT DENIED IN CASE AT BAR.— There is denial of